

T H E
Lord Holles
H I S
VINDICATION

Of Himself and of his Son

Sir *FRANCIS HOLLES*,

F R O M

Some Foul Aspersions cast upon
them by Mr. Justice *Ellis*, in some
Depositions of his taken in the
High Court of *Chancery*.



L O N D O N,

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Lord Holford

INDICATION

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*The Lord Holles his Vindication of himself and
his Son Sir Francis Holles, from some foul
Aspersions cast upon them by Mr. Justice Ellis,
in some Depositions of his taken in the High
Court of Chancery.*



Having seen some Depositions of Mr. Justice Ellis taken in *Chancery*, in a Cause there depending, between Sir Francis Holles and Sir Robert Carr, concerning a Portion due (but denied to be paid) by the said Sir Robert, to the said Sir Francis, who had married his Sister; in which the said Justice is pleased to say things very much reflecting, both upon Sir Francis, and upon me his Father; where there are great mistakes, and much said by him as upon hear-say; which though insignificant as to be matter of Proof and Evidence, yet serving much to make a noise, and possess standers-by, who shall hear his Depositions read, with a prejudice and ill opinion of us, as if we were really guilty of those foul Things which are there said of us; I shall therefore do that right to my Self, my Son, and to Truth, as to make some Observations upon those Depositions, to discover the very great improbability (to say no more) of what is there delivered: My method shall be, first to set down the Interrogatory, and his Deposition *verbatim*; then to shew briefly, where in it he hath varied from Truth by his own mistake, and where upon hear-say from another Body.

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The Interrogatory is thus: *Do you believe, or have you heard that the said Sir Francis Holles had preconveyed those Lands so to be settled for an additional Jointure as aforesaid to other Persons, to other uses, so to frustrate the said Settlement? Or what discourse have you at any time had with Sir Francis Holles about the Premises? and whether did not the said Sir Francis Holles confess to you, that he had so preconveyed the said Lands, that were so to be settled for an Additional Jointure as aforesaid? Declare, &c.*

The Deposition follows: *To the 5th Interrogatory this Deponent saith, That after the said Deed was so executed by the said Complainant, the said Lady Carr came to him this Deponent, and acquainted him that the said Complainant had made some Settlement and Conveyances of his Estate, he had so made to his Wife for an Additional Jointure, after his said Marriage, and before the Sealing of the said Deed for an Additional Jointure, on purpose to avoid the said Jointure, and that the said Jointure was worth nothing; at which he this Deponent was much surprized, and did take himself concerned in it, for that he this Deponent had drawn, or caused his Man to draw the said Jointure; and perswaded the said Lady Carr, that she should have no apprehensions, that the Complainant would do any such thing; and that he this Deponent did conceive, that he the said Complainant had a good Estate in himself, when he this Deponent saw the said Deeds: but the said Lady Carr did insist upon it, that it was true, that he the Complainant had done such an Act; and that not many days before he sealed the said Jointure, he had conveyed away his Estate to others: Whereupon he this Deponent took an occasion to acquaint the Complainant with what he had heard, who to the best of this Deponents remembrance did acknowledge the same. But this Deponent well remembreth, that upon that discourse with the Complainant, he this Deponent was well satisfied, that some short time before the said Complainant sealed the said Conveyance of an Additional Jointure, he had conveyed over his Estate therein to some other Person or Persons, whereat this Deponent was much troubled.*

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This concerns only my Son, who hath in his Answer upon Oath to Sir Robert Carr's Bill in Chancery, said positively he made no such Preconveyances; The words of his Answer are these:

This Defendant denies that before his Sealing and Executing the Deeds of Lease and Release in his former Answer mentioned, he had made or granted any Estate or Conveyance of or in the Lands or Hereditaments therein mentioned, or any part thereof, to any Person or Persons whatsoever: Nor doth this Defendant remember or believe he ever declared or confessed, he made or granted any Estate or Conveyance thereof precedent to the said Deeds of Lease and Release; nor had he any reason so to do, for that this Defendant at the time of his Sealing the said Deeds of Lease and Release, was seized of such Estate in the said Premises, as that he had (as he conceived and was advised by Counsel) good right and power to convey the same, as by the Deeds of Lease and Release was mentioned and intended.

Now, if there never was any such thing done by him, certainly he could not acknowledge that he had done such a thing as is set forth in the Deposition: It is true, Mr. Justice Ellis something qualifies his Assertion by putting in these words, *That to the best of his remembrance he did acknowledge it.* But he must give me leave to remember him, that a Man of his gravity, who hath the honour to be one of the twelve Judges of Westminster-Hall, (whose words even doubtfully spoken are of great weight, and do sway much to lead other Mens Opinions and Judgments to a concurrence with his, even with what he inclines to believe) should not utter any thing tending so much to the disparagement of another, give such a wound to the Honour and Reputation of a Gentleman, as this Accusation (if true) would do to my Son, but upon a very great certitude: For, I say, if this were true, that my Son had done such an Act, so unworthy of himself, so unbecoming an honest Man, much less a Gentleman, I would never own him more for my Son, but should think him fitter for a
Goal

Goal or a Bridewell, and there to end his days, than to come into any honest Company ; and truly I look upon it as such an injury done him, as that it passeth almost all Reparation.

And Mr. Justice *Ellis* goes something further, and saith, *He well remembers that, which is, That upon that Discourse he was well satisfied there were such Preconveyances, and that he was much troubled at it.* And saying what he said before, I do not much wonder that he saith this ; For I see he is resolved to lead others into a belief that there were such Preconveyances, whether there were any or no ; and I am most confident, so as I durst almost swear it, as much as I would swear, for any thing that I do not of my own knowledge certainly know, that there never were any such Preconveyances, nor never any such discourse, or ground for such a discourse. For, first, my Son hath denied it upon his Oath, and I never observed but that he was one who made a Conscience of his Ways, and Conscience of an Oath. But admit him to be a Knave, and that it had been true, that he had done such an unworthy fraudulent Act, in all reason he would not have been so weak, as to have acknowledged it in his Discourse to one, who he knew came to pump it out of him, or have given him any ground to be satisfied that it was so, and that he had so played the Knave : Such Works of Darknes use not to be owned and avowed, since it is the secrecy of them that they owe their Being unto, and which renders them advantageous to their Contrivers. Therefore it is not probable my Son would make such a Confession to him : And if Mr. Justice *Ellis* did but gather it from Circumstances, and by Inferences upon what was said, he should have done well to have declared those Circumstances, and have expressed in his Deposition the Particulars of that Discourse, upon which he grounded his being so satisfied ; which certainly he could not but have remembered, (if there had been any) as well as that he was so satisfied upon it. And me-thinks he should have asked the Lady *Carr*, what ground she had to say so, before he had gone any further, especially so far as to speak with my Son about it, which

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he could not but think would be to him a very difobliging difcourse taxing him with, and questioning him about fuch a piece of knavery; of which yet nothing appeared, and of which there was no fign, no *Vestigium*, but in the Lady Carr's Fancy; and (it feems) a defire in Mr. Juftice *Ellis* to have it fo believed by others, whether true or not true.

But I may ask, Did Mr. Juftice *Ellis* do the part of a faithful Friend to the Lady Carr, and Sir Robert Carr, for whom he faith he was entrusted, as their Learned Counsel, to draw their Writings, and take care that good Affurances fhould be made, and all things well fettled? That he fhould know, or but believe, or fear, there was fuch double-dealing ufed towards his Clients and Friends, fuch a Fraud and Cheat put upon them, inftead of an Additional Jointure to a Daughter of their Family, and he be filent fo long, and fay nothing of it, whereby it might be put into fome way, to difcover all that foul play, and prevent the mifchief and inconvenience which muft of neceffity have come of it; For that Wife of my Son's, whofe Portion they would now not pay, lived with him feveral Years, and a Daughter he had by her lived about a twelve month after the Mother; and all that time Mr. Juftice *Ellis* faid not one word of this, nor I know, not of how long after, not until his examination in this Caufe in *Chancery*: And to fay the Truth, I have reafon to believe, that both his Satisfaction and his Trouble (which he fpeaks of) began but when Sir Robert Carr took up the Refolution to keep back his Sisters Portion; and that he had no thought before, that ever there had been fuch difcourse between my Son and him, or any thing like it, to caufe either his Satisfaction, or his Trouble. And fo I come to his next Depofition.

The Interrogatories were the 5th, 6th, and 7th: The 5th; *Did you at the inftance of Dame Mary Carr prepare a Draught in purfuance of the faid Settlement, to tender to the Lord Holles, and the Plantiff Sir Francis, and what was done therein, and whether was the fame accepted or no? Declare, &c.*

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6th,

6th, Do you know that the Lord Holles did refuse to appoint his own Counsel, to draw a Book in pursuance of the said Articles of Agreement; and was there ever any Settlement made according to the said Articles? Declare, &c. 7th; Do you know, or have you heard that the said Lord Holles did ever deliver a Copy or Draught of such Settlement to the said Dame Mary Carr, or to her Counsel for that purpose appointed? Declare, &c.

His Deposition to those Interrogatories more immediately concerns me, it runs thus:

To the 5th, 6th, and 7th Interrogatories, This Deponent saith that he doth well remember, That the said Lady Carr was often with him this Deponent, to prepare a Conveyance for to make a Settlement, according to the said Articles of Agreement upon the said Marriage; and did very much complain she could not get the said Lord Holles to do it; and did often importune him this Deponent to draw a Book to that purpose: Whereupon this Deponent told her, That he could not well draw a Book without sight of the said Lord Holles his Writings, which she could not procure. But this Deponent remembreth, at the said Lady Carr's importunity, he this Deponent did draw, or cause to be drawn, a rough draught of a Paper Book with Blanks, to the Effect of the said Articles, the said Lady Carr often telling him this Deponent, that she had the Money for the Portion ready if she could but have the Assurances performed. And this Deponent had often discourse with Sir William Constantine, the said Lord Holles his Counsel, who did except against something in the said Articles, and said they were not reasonable; whereupon this Deponent told him, that they were drawn by the said Lord Holles himself with his own hand, and that they were not to make Articles, but to draw Assurances, according to the Articles already made, and desired him the said Sir William, That if he did not like the said Draught, which he this Deponent had drawn, that he the said Sir William would draw a Book himself; and if there were any thing in the said Articles unreasonable, (so as the Substance and Effect of them might be performed) he this Deponent would perswade the Lady Carr to agree to them. But this Deponent did not perceive that the said
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Sir William Constantine *was willing to do it. And this Deponent saith that afterwards the said Lord Holles was with him this Deponent, and did complain of the said Articles, and said it was never his intention such Settlement should be made; whereupon this Deponent told his Lordship, That he this Deponent could not, nor had any power to make any new Articles; but if any thing were unreasonable or hard upon him in them, he this Deponent would do his endeavour to perswade the Lady Carr to have them rectified; but this Deponent doth not know that ever any Conveyances were made and executed according to the said Articles, or otherwise, or any tendred by the Lord Holles or his Counsel, although the said Lady Carr did often desire, and was very importunate to have had the same done and perfected.*

The Matter of this is far from Truth; yet it may be true, that the Lady Carr told him so; But that good Lady would sometimes mistake, and I am sure she did so now, if she said any such thing to Mr. Justice Ellis, as he saith she did: For upon the Faith of a Christian it is not true, that she did press me to perfect those Assurances, and as little true that I ever refused it, or was backward to do my part in it. So far from it, that it was still desired and pressed on by me; and it stuck at her, and those of her side, who would never perform what was in the first place their part to do, which was to secure the Portion. For which purpose, she was tied by the Articles to get a Fine levied of her Husband and Son, of certain Lands there specified, in the *Michaelmas* Term following after the Marriage of her Daughter, which was about the latter end of *August 1661*. This was not done. And my Engagement for settling the Jointure, was to do it some three months after that Fine levied: for this I was to do but in six months after the Marriage, which time did not expire till about the end of *February*. So then the Portion not secured, as I was not at all bound, so it had been a very imprudent thing in me to have settled Land for a Jointure *gratis*, without any hopes of ever seeing a Portion, which by their dealing I had cause to apprehend might be their intention, or at least to put us to trouble to recover it.

For though Mr. Justice *Ellis* is pleased to say, *That the Lady Carr told him the Portion was ready* ; She nor he never told us so: It is what we never heard of, neither my Son nor I, and I am confident no Man nor Woman did ever hear so, but the Justice himself ; And sure we were most concerned to have had the notice given to us : Nay, the Justice, who by his own saying was intrusted with the care of procuring those Settlements to be made, and seeing all things performed, that were requisite thereunto, was bound in Duty and Conscience to have signified so much to us, as that which would have removed the sole Obstacle, and brought the Business to a happy conclusion ; or at least it would have justified to all the World the sincerity of their Proceedings, and laid open past all denial the tergiversation and insincerity which they met with from us.

I am sure that with much ado, after long waiting, and several solicitations of mine, being then upon my Journey into *France*, I got a meeting at my House in *Westminster* with the Lady Carr's Agents, a Counsellor at Law one Mr. *Cox*, and some others whom she employed ; And all the Writings on my part were there ready, and were examined and approved by them, and I began to Seal, and had sealed one or two ; and I had acknowledged a Fine of the Land in pursuance of the Articles, and I delivered it to them : And as I was Sealing, I asked what Order they had for the Portion ; to which Mr. *Cox* answered, He had none at all ; whereupon I replied, I would then settle no Jointure, till I had satisfaction in that Particular, and accordingly stopped my hand from further Sealing, and there it rested.

Soon after that I went into *France*, where I continued near three years ; whilst I was there, I received a desire from Sir *Robert Carr*, that I would write to some of my Friends in the House of Peers (the Parliament then sitting) for their favour and assistance to him in passing a Bill to settle his Estate, and enable him to pay some Debts, and particularly to discharge

charge and pay his Sisters Portion : Accordingly I did write to several Lords, to the Earl of *Arlington* by name for one, who was then Principal Secretary, is yet alive, and can witness if this be true that I say.

My last treating about this Business, or rather I may say my last endeavour to have treated, was when I went once to have visited the Lady *Carr* at her House in *Lincolns-Inn-fields*, with an intention to have moved her, that she would at last perfect things relating to it. And I stayed near an hour in a low Parlour, spake to several of the Servants to acquaint her with my being there, but could have no answer ; So I came away, and I never went to see her more, nor never had any more to do with her.

By these Passages it appears no Portion was ready, whatever the Lady said to Mr. Justice *Ellis* ; And whether she said it or no, I durst almost positively affirm, he could not believe it was so ; for he, who knew that Family so well, and the Necessities, Difficulties, and Distractions which it laboured under, by reason of the Distemper of Sir *Robert Carr* the Father, the opposition of the Lady to her Husband, and to all that he did, their drawing several ways, sometimes the one prevailing, sometimes the other, one undoing what the other did ; he, I say, who knew all this, could not but know that six thousand Pounds, was a Sum not to be there so easily gotten together, and that he was not presently to believe it to be so because that Lady said it.

Indeed I have heard she had a Sute in *Chancery* with her Counsellor Mr. *Cox*, about some Money that she had put into his hands ; which Money, she in her Answer to my Son's Bill in *Chancery*, saith was for the payment of this Portion ; but how likely this is to be true, that it was for that use, let any Man judge. *Cox*, as I have heard, confessed only two thousand Pounds, and that it was in trust for one Mr. *Fleetwood*, a Gentleman whom she then much respected ; and besides this was in 1667, or 1668, several years after all treating about

about either Portion or Jointure, or any thing else relating to her Daughters Marriage, was absolutely broken off and laid aside, and her Daughter then dead, of whom, or of any thing concerning her, she then certainly had no thought at all; so as this is but a meer Fancy, that it seems she then pleased her self with, when she was Sued by my Son, of which he nor none of his Friends had ever heard before, whom (as I have already said) she should chiefly have acquainted with it.

Yet this Deposition of Mr. Justice *Ellis* even so framed, but upon a Hear-say, may have its operation, and perhaps much to my disadvantage; for though the Justice speak it but upon the Lady *Carr's* Credit, who should tell him such things, *That I refused to perform Covenants, and that the Portion was ready, but I would do nothing of that I ought to do*; yet this coming from him, and being vented and published by him, a Person of that Weight and Authority, who bears such a Figure as he doth, will make an impression upon some Mens Minds, as if I were in truth such a Man as I am there deciphered to be. Therefore I have cause to complain of his readiness upon so slight a ground to utter things so much to my disparagement; and which he could not but know to be no legal Evidence in the behalf of Sir *Robert Carr*, who had produced him for a Witness, and shews more a good will and a desire he had to please him, than that it could be any real service to him, for the carrying on of his Cause.

He goes on and tells a Story, first of a Discourse between him and Sir *William Constantine*, then of one between him and me; What Sir *William Constantine* said to him I do not know. I do not remember that ever I employed Sir *William Constantine* to treat with him about that Business; nay, if I were to die at this present, I would take it upon my death, that I cannot call to mind, that ever I knew that Serjeant *Ellis* (for so I think he was then) was employed, or made use of, in any part of all that Negotiation between the Lady *Carr* and me; so I may very well say, that I do not believe it to be true, that

that I ever was with him to *complain of the Articles*, and that I should say it *was never my intention, that such a Settlement should be made.*

And I do verily believe he goes upon a mistake, confounding another Business with this : For I do acknowledge, I was with him about a Marriage propounded for the Earl of *Lincoln*, which was long after that of my Son's ; and I am very confident it was upon that occasion, the first time that ever I was at his Chamber, or ever had to do with him ; for I do very well remember, that when I went to speak with him about that Business of the Earl of *Lincoln*, I did not know where his Chamber was till it was shewed me ; which could not have been, if ever I had been there before.

But be it how it will, that he was employed or not employed in that business, and that I was or was not with him about it, it matters not much ; I wish he had dealt more clearly in his Testimony, and not have spoken in the Clouds, laid a general Charge, which makes a sound, as if it signified some great Matter ; *That I should complain of the Articles, and say, I never intended to make a Settlement according to them, though the Articles were of mine own drawing, as he saith ;* Which if true, I had been certainly a very unworthy Man, not fit for that common dealing which is between Man and Man, one upon whose Promises, nay Covenants and Engagements no Man could put trust nor confidence ; And for such a Man he endeavours to make me to pass ; and therefore tells not, wherein I was unsatisfied, or what the particular was which I complained of.

For it is true, I did complain of one Particular, (yet I think not to him, for (as I say) I do not believe I ever spake with him in all that Business) nor was it of the Articles I complained ; But this I complained of, that the Lady *Carr* would have something to be done by me, which was not in the Articles, as I supposed : It was concerning three Leases which I held for Lives, one from the Earl of *Salisbury*, the
other

other two from the Bishop of *Salisbury*: I had Articled, that after my Decease my Son should have them, and was willing to yeeld to any thing, whereby they might be secured to my Son, that it should not be in my power to dispose of them from him: But nothing would serve the Lady *Carr*, but that I should presently assign them over to him; which I could not give way to for two respects: One was a little Point of Honour; for two of these Leases being of two Mannors, I could not afterwards keep Courts, nor grant Estates in my own Name, but must do it in my Sons: The other was a real Inconvenience, that when any of my Lives should die, it would not be in my power to renew my Estate, without having him present to join with me, or rather to be himself the taker of it in his own name, who lived not with me, might be an hundred miles off, when an occasion of renewing should present it self, and I by that means might lose the opportunity, which would have been a great prejudice unto me, and even to my Son and his Wife, to whom those Leases were to come after me. This I did not conceive at all to be the sense and meaning of the Articles; which on the other side I did conceive would have been fully pursued and performed by what I proposed, and what I was willing and ready to do: And therefore Mr. Justice *Ellis* would not tell the Particular, what it was that I complained of, which would have carried with it its own Justification, but laps it up in general terms, to make me appear a falsifier of my word, and of my Covenants. This I think was not so fair, and seems to me to argue rather a desire in him to do me a mischief, and serve a turn, than to give a full and clear Testimony to the Truth.

One thing more I must observe, which I cannot let pass without some Remarque upon it, he saith, *The Articles were of mine own drawing*, and makes use of that Circumstance to aggravate my ill dealing, that I should go against my own Act, and have the impudence my self to proclaim it, and say I never intended the Settlement should be made according to the Articles which my self had drawn. Which had been a folly

folly in me even beyond the knavery, for few that play the Knaves will be so very Fools, as to say they intended it.

But in truth Mr. Justice *Ellis* hath ill luck to mistake in all he hath deposed from the beginning to the end; For this is as true of my drawing the Articles, as all the rest which I have before spoken to: It was Sir *Orlando Bridgman* that drew them, or caused them to be drawn: All the hand that I had in them, was to insert the name of Sir *Robert Carr* the Father, whom they would have left out, saying he was mad, and that the Lady managed all, both the Person and Estate of her Husband being committed to her, and governed by her in the nature of his Guardian, so that it was not at all needful (as they said) to make him a Party; yet I desired he should be made a Party, and therefore put in his Name in several places, where I conceived it necessary.

And one Passage more I find there written with my own hand; It was to have 4000 pounds of the Portion laid out in Land to be settled upon my Daughter in Law for an Addition to her Jointure; and further to declare how the remainder of the whole Estate should go in case of no Issue.

This is all I did as to the drawing of the Articles: but I do not say, nor did I ever think, that I was the less bound by them, because I did not make them my self, for I did agree to them, and was still ready to have performed them, if the Lady *Carr* would have performed her part concerning the Portion, which (as I have said before) was at least to have been secured in the first place.

However I was resolved still to take care of her Daughter, and do all that I was bound to do, or indeed could do (whether bound to it or no) for her good, after she was once married into my Family, who I must say did deserve it, and proved a very excellent good Woman; though before she did come into my Family, that is, before I knew her, and was acquainted with her, I was not at all desirous my Son should

marry there. It was Sir *Edward Rossiter* that first proposed the Match, who did manage the treaty of it and perfect it ; And if my Son would have been ruled by me, and followed my advice, he had not been married before he had received his Portion, and then all the trouble that hath since followed would have been prevented ; but this is not much to the purpose : To return then to Mr. Justice *Ellis* his Deposition and so make an end.

In his conclusion of it, he goes beyond all that he hath said before, he saith, *He did not know that any Conveyances were made by me according to the Articles, although the Lady Carr did often desire the same, and was very importunate ~~with me~~ to have it done and perfected.* Here he seems positively to swear, that the Lady Carr did often desire it, and was importunate with me to have it done. I would fain hope, that there was some mistake in the Examiner writing down his Deposition, and that he omitted what he had fully expressed in the former part of it, which was, *That the Lady Carr had told him so* ; and so indeed he may swear truth, though she did not say true ; For I am sure the thing is very false, if there be any truth in me : It was I still that desired her and importuned her, and not she me, I was still ready but she would do nothing. And upon the whole Matter I must say, That I am as much wronged by Mr. Justice *Ellis* in his Deposition throughout, as a Man can be ; yet as a Christian I will say, God forgive him, and I do ; though he hath done me all this wrong ; which is a better conclusion of my Remarques, than his of his Deposition.

F I N I S.

